

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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WHITNEY N. FELDER,	:	
Plaintiff,	:	
	:	
v.	:	No. 2:16-cv-01231
	:	
CAROLYN W. COLVIN,	:	
Acting Commissioner of Social Security,	:	
Defendant.	:	

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**ORDER**

AND NOW, this 18<sup>th</sup> day of April, 2017, upon consideration of Plaintiff's pro se Complaint, ECF No. 5, Defendant's Answer, ECF No. 8, Plaintiff's pro se Brief and Statement of Issues in Support of Request for Review, ECF No. 11, Defendant's Response to Request for Review, ECF No. 12, Plaintiff's pro se Complaints for Damages and Motions for Jury Trial, ECF Nos. 13, 16-18, 21, Plaintiff's counseled<sup>1</sup> Motion to Withdraw Amended Complaint and Associated Documents and Stipulation Regarding Report and Recommendation., ECF No. 23,<sup>2</sup> the administrative record,<sup>3</sup> and after review<sup>4</sup> of the Report and Recommendation of Jacob B. Hart, United States Magistrate Judge, ECF No. 14, **IT IS ORDERED THAT:**

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<sup>1</sup> Plaintiff initiated and has been litigating this action pro se, or with the help of her father, but an attorney entered an appearance on her behalf on April 13, 2017. ECF No. 22.

<sup>2</sup> Counsel's Motion states: "Plaintiff requests that this Honorable Court adopt the unobjection to Report and Recommendation by Magistrate Judge Jacob P. Hart dated November 18, 2016, and remand this matter for further proceedings as set forth in the Report and Recommendation." ECF No. 23.

<sup>3</sup> Although there is no notation on the docket reflecting the Court's receipt of the administrative record, the Magistrate Judge had the full transcript, and reviewed the same, prior to issuing the Report and Recommendation. *See, e.g.* R&R 1-7, ECF No. 14 (citing to specific pages and documents in the administrative record and discussing the contents thereof). The Undersigned also has the administrative record in its possession and has reviewed the contents thereof.

1. The Report and Recommendation, ECF No. 14, is **APPROVED and ADOPTED**.
2. Plaintiff's Request for Review, ECF No. 11, is **GRANTED in part and DENIED in part**.
3. The matter is **REMANDED** to the Commissioner of Social Security for further development of the record, including consideration of Felder's therapy notes, procuring a functional assessment from her treating professionals, and the taking of testimony from a medical expert if needed.
4. This case is **CLOSED**.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.  
JOSEPH F. LEESON, JR.  
United States District Judge

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<sup>4</sup> When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under *de novo* or any other standard. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 152 (1985). Nevertheless, the United States Court of Appeals for the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). "When no objections are filed, the district court need only review the record for plain error or manifest injustice." *Harper v. Sullivan*, No. 89-4272, 1991 U.S. Dist. LEXIS 2168, at \*2 n.3 (E.D. Pa. Feb. 22, 1991); *see also Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (explaining that in the absence of a timely objection, the court should review the magistrate judge's report and recommendation for clear error). The "court may accept, reject, or modify, in whole or in part, the findings and recommendations" contained in the report. 28 U.S.C. § 636(b)(1)(C).